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By: Delegates Carter, Anderson, Dumais, Gutierrez, Howard, Kaiser, Marriott, Nathan-Pulliam, Oaks, Patterson, Ramirez, Rosenberg, and Vallario

Introduced and read first time: February 4, 2004

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

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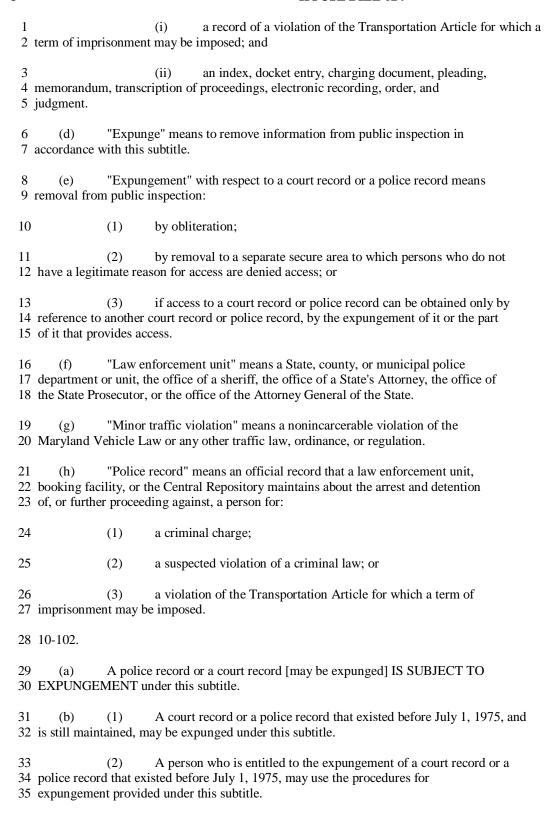
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Criminal Procedure - Expungement - Automatic

3 FOR the purpose of prohibiting a court from assessing costs against a certain defendant in connection with an expungement under certain circumstances; 4 5 altering a provision of law so as to make certain procedures relating to expungement of certain records applicable only to certain arrests, detentions, or 6 7 confinements occurring before a certain date; establishing that for certain 8 arrests, detentions, or confinements occurring on or after a certain date, the person arrested, detained, or confined is entitled to expungement of certain 9 10 police records; requiring a certain law enforcement unit to take certain actions 11 within a certain amount of time after release of a certain person entitled to 12 expungement of a certain police record; requiring certain entities to take certain 13 actions within a certain amount of time after receipt of a certain notice of 14 expungement; authorizing a certain person to apply for a certain order of 15 expungement under certain circumstances; altering a provision of law so as to 16 make certain procedures relating to expungement of certain records applicable 17 only to certain charges filed before a certain date; establishing that for certain 18 charges filed on or after a certain date, the person charged is entitled to 19 expungement of certain records under certain circumstances; requiring a court 20 to pass an order requiring the expungement of certain records under certain circumstances; requiring a certain custodian of records to take certain actions 21 within a certain amount of time after a court enters an order of expungement; 22 23 altering a provision of law so as to make certain procedures relating to 24 expungement of certain juvenile records applicable only to certain charges filed before a certain date; establishing that for certain charges filed on or after a 25 certain date, the person charged is entitled to expungement of the charge under 26 27 certain circumstances; requiring the juvenile court to pass an order requiring 28 the expungement of certain records under certain circumstances; requiring a 29 certain custodian of records to take certain actions within a certain amount of 30 time after a juvenile court enters an order of expungement; repealing a certain 31 provision denying entitlement to expungement under certain circumstances 32 relating to charges arising from the same incident, transaction, or set of facts;

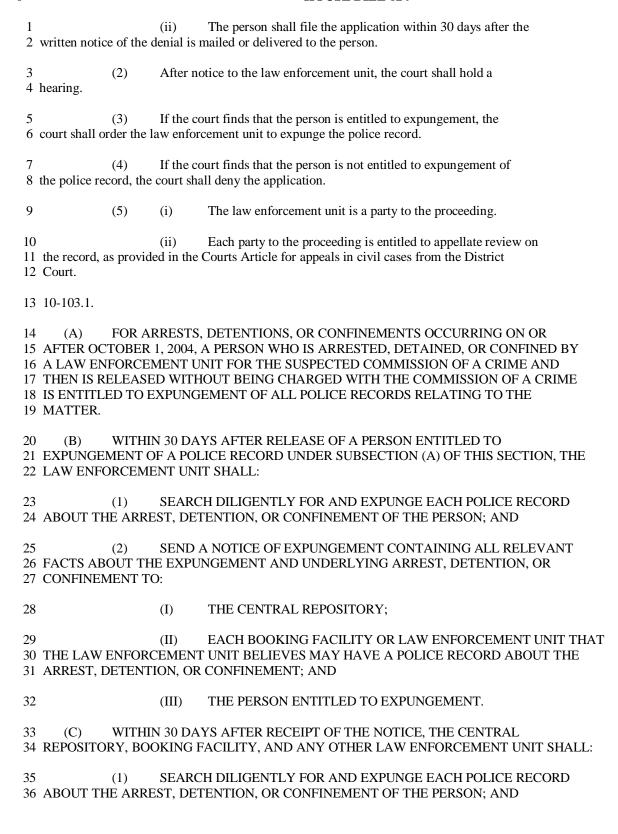
providing that the right to expungement of one charge that arises from a

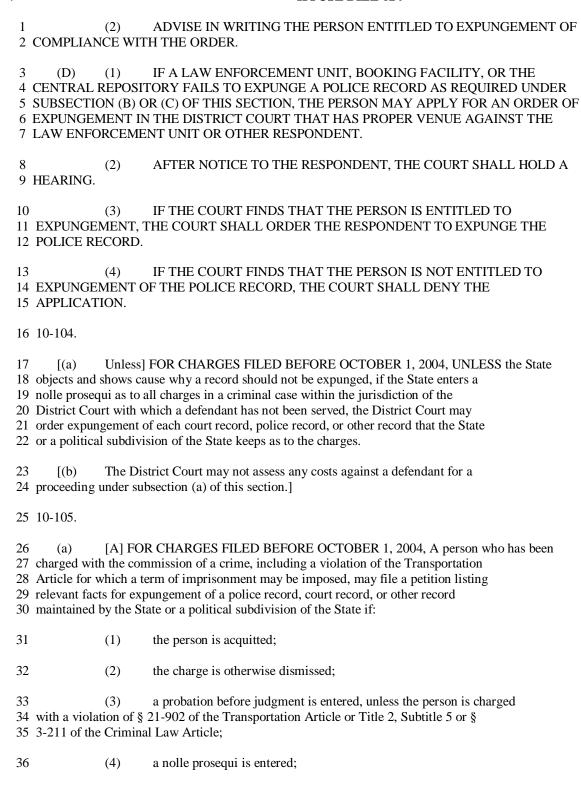
- **HOUSE BILL 624** 1 particular incident, transaction, or set of facts does not affect any right to 2 expungement of any other charge arising out of the same incident, transaction, or set of facts; and generally relating to expungement of police and court records. 3 4 BY repealing and reenacting, without amendments, 5 Article - Criminal Procedure Section 10-101 6 7 Annotated Code of Maryland 8 (2001 Volume and 2003 Supplement) 9 BY repealing and reenacting, with amendments, Article - Criminal Procedure 10 Section 10-102 through 10-106 11 Annotated Code of Maryland 12 13 (2001 Volume and 2003 Supplement) 14 BY repealing Article - Criminal Procedure 15 16 Section 10-107 17 Annotated Code of Maryland (2001 Volume and 2003 Supplement) 18 19 BY adding to Article - Criminal Procedure 20 21 Section 10-103.1, 10-105.1, 10-106.1, and 10-107 Annotated Code of Maryland 22 23 (2001 Volume and 2003 Supplement) SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF 24 25 MARYLAND, That the Laws of Maryland read as follows: 26 **Article - Criminal Procedure** 27 10-101. 28 In this subtitle the following words have the meanings indicated. (a)
- 29 "Central Repository" means the Criminal Justice Information System (b)
- 30 Central Repository in the Department.
- 31 "Court record" means an official record of a court about a criminal (c)
- 32 proceeding that the clerk of a court or other court personnel keeps.
- 33 "Court record" includes: (2)

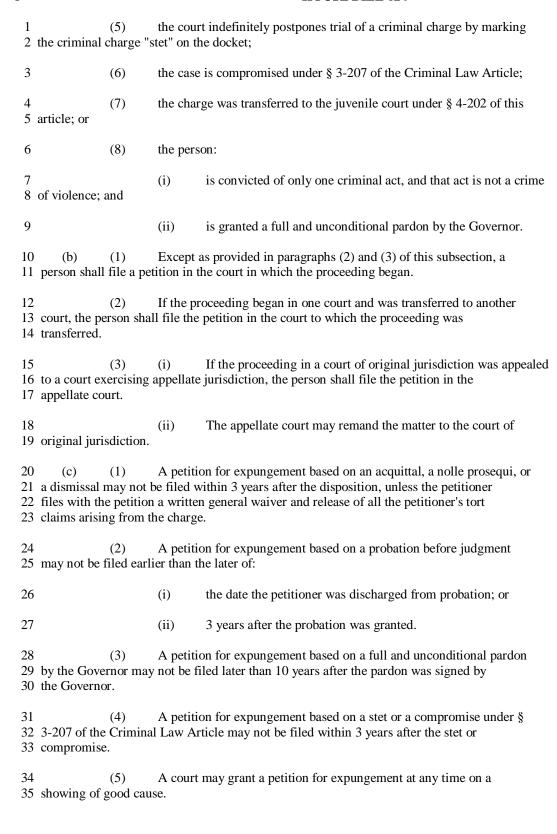


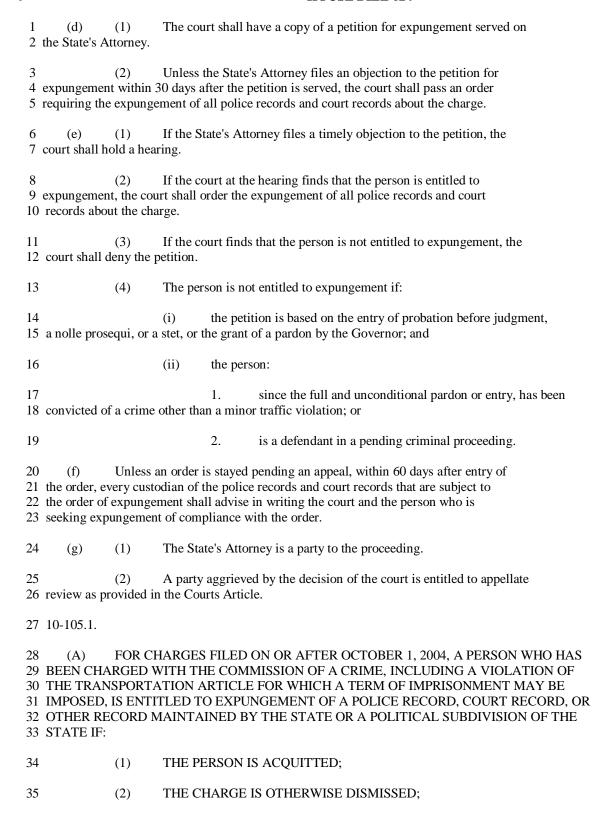
	(3) The limitation periods provided in §§ 10-103 and 10-105 of this subtitle begin when the person becomes entitled to expungement of a court record or a police record that existed before July 1, 1975.				
4 5	(4) The custodian of court records or police records that were made before July 1, 1975, and that may be expunged under this subtitle:				
6 7	expungement;	but	(i)	shall make a reasonable search for a record requested for	
8 9	found after a r	easonab	(ii) le search	need not expunge a court record or a police record that is not	
10	(c) This subtitle does not apply to:				
11	((1)	a record	about a minor traffic violation;	
12	((2)	the publ	ished opinion of a court;	
13 14	purposes;	(3)	a cash re	eceipt or disbursement record that is necessary for audit	
15 16	5 (4) a transcript of court proceedings made by a court reporter in a multiple defendant case;				
17	((5)	an inves	tigatory file; or	
18 19	(6) a record of the work product of a law enforcement unit that is used solely for police investigation.				
20 21	(D) A COURT MAY NOT ASSESS ANY COSTS AGAINST A DEFENDANT IN CONNECTION WITH AN EXPUNGEMENT THAT IS EFFECTED UNDER THIS SUBTITLE.				
22	10-103.				
25	(a) [A] FOR ARRESTS, DETENTIONS, OR CONFINEMENTS OCCURRING BEFORE OCTOBER 1, 2004, A person who is arrested, detained, or confined by a law enforcement unit for the suspected commission of a crime and then is released without being charged with the commission of a crime may:				
27 28		(1) es may l		tten notice of these facts to a law enforcement unit that the blice record about the matter; and	
29	((2)	request t	he expungement of the police record.	
			this subt	as provided in paragraph (2) of this subsection, a person may itle before the statute of limitations expires for all tort dent.	

	(2) (i) A person may give notice before the statute of limitations expires if the person attaches to the notice a written general waiver and release, in legal form, of all tort claims that the person has arising from the incident.					
4	(ii) The notice and waiver are not subject to expungement.					
5 6	(3) The law enforcement unit shall keep the notice and waiver at least until any applicable statute of limitations expires.					
7 8	(4) The person shall give the notice within 8 years after the date of the notident.					
9 10	(c) (1) On receipt of a timely filed notice, the law enforcement unit promptly shall investigate and try to verify the facts stated in the notice.					
11 12	(2) If the law enforcement unit finds the facts are true, the law enforcement unit shall:					
13 14	(i) search diligently for each police record about the arrest, detention, or confinement of the person;					
15 16	(ii) expunge each police record it has about the arrest, detention, or confinement within 60 days after receipt of the notice; and					
17 18	(iii) send a copy of the notice and the law enforcement unit's verification of the facts in the notice to:					
19	1. the Central Repository;					
	2. each booking facility or law enforcement unit that the law enforcement unit believes may have a police record about the arrest, detention, or confinement; and					
23	3. the person requesting expungement.					
	(d) Within 30 days after receipt of the notice, the Central Repository, booking facility, and any other law enforcement unit shall search diligently for and expunge a police record about the arrest, detention, or confinement.					
	(e) If the law enforcement unit to which the person has sent notice finds that the person is not entitled to an expungement of the police record, the law enforcement unit, within 60 days after receipt of the notice, shall advise the person in writing of:					
30	(1) the denial of the request for expungement; and					
31	(2) the reasons for the denial.					
34	(f) (1) (i) If a request by the person for expungement of a police record is denied under subsection (e) of this section, the person may apply for an order of expungement in the District Court that has proper venue against the law enforcement unit.					









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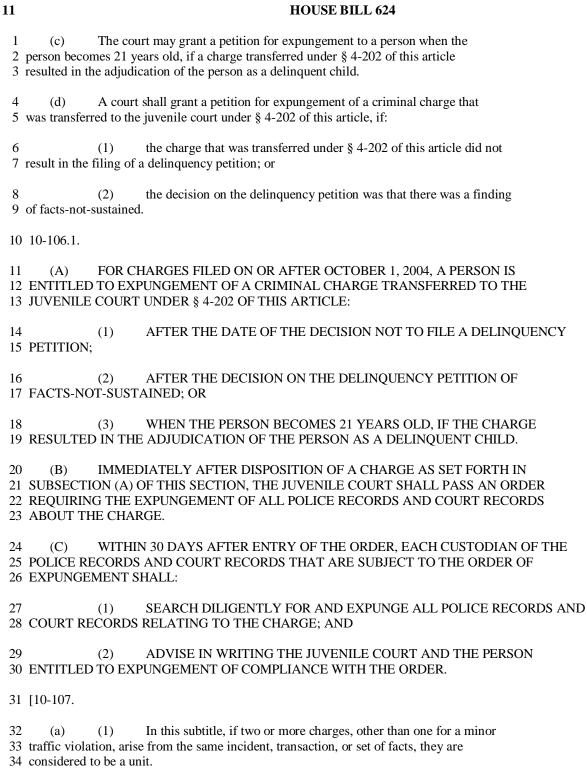
(2)

10 **HOUSE BILL 624** 1 (3)A PROBATION BEFORE JUDGMENT IS ENTERED, UNLESS THE 2 PERSON IS CHARGED WITH A VIOLATION OF § 21-902 OF THE TRANSPORTATION 3 ARTICLE OR TITLE 2, SUBTITLE 5 OR § 3-211 OF THE CRIMINAL LAW ARTICLE; 4 (4) A NOLLE PROSEQUI IS ENTERED; (5) THE COURT INDEFINITELY POSTPONES TRIAL OF A CRIMINAL 6 CHARGE BY MARKING THE CRIMINAL CHARGE "STET" ON THE DOCKET; THE CASE IS COMPROMISED UNDER § 3-207 OF THE CRIMINAL LAW 7 (6)8 ARTICLE; THE CHARGE WAS TRANSFERRED TO THE JUVENILE COURT UNDER § 10 4-202 OF THIS ARTICLE; OR 11 (8)THE PERSON: 12 IS CONVICTED OF ONLY ONE CRIMINAL ACT, AND THAT ACT IS (I) 13 NOT A CRIME OF VIOLENCE; AND 14 (II)IS GRANTED A FULL AND UNCONDITIONAL PARDON BY THE 15 GOVERNOR. IMMEDIATELY AFTER DISPOSITION OF A CHARGE AS SET FORTH IN 16 (B) 17 SUBSECTION (A) OF THIS SECTION, THE COURT EFFECTING THE DISPOSITION SHALL 18 PASS AN ORDER REQUIRING THE EXPUNGEMENT OF ALL POLICE RECORDS AND 19 COURT RECORDS ABOUT THE CHARGE. WITHIN 30 DAYS AFTER ENTRY OF THE ORDER, EACH CUSTODIAN OF THE 20 (C) 21 POLICE RECORDS AND COURT RECORDS THAT ARE SUBJECT TO THE ORDER OF 22 EXPUNGEMENT SHALL: 23 (1) SEARCH DILIGENTLY FOR AND EXPUNGE ALL POLICE RECORDS AND 24 COURT RECORDS RELATING TO THE CHARGE; AND ADVISE IN WRITING THE COURT AND THE PERSON ENTITLED TO (2) 26 EXPUNGEMENT OF COMPLIANCE WITH THE ORDER. 27 10-106. 28 In this section AND § 10-107 OF THIS SUBTITLE, "delinquency petition" 29 means a petition filed under § 3-8A-10 of the Courts Article alleging that a child is a 30 delinquent child. [A] FOR CHARGES FILED BEFORE OCTOBER 1, 2004, A person may file a 31 32 petition for expungement of a criminal charge transferred to the juvenile court under 33 § 4-202 of this article:

after the date of the decision not to file a delinquency petition; or

after the decision on the delinquency petition of facts-not-sustained.

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A charge for a minor traffic violation that arises from the same

36 incident, transaction, or set of facts as a charge in the unit is not a part of the unit.

- 1 (b) (1) If a person is not entitled to expungement of one charge in a unit, the 2 person is not entitled to expungement of any other charge in the unit.
- 3 (2) The disposition of a charge for a minor traffic violation that arises
- 4 from the same incident, transaction, or set of facts as a charge in the unit does not
- 5 affect any right to expungement of a charge in the unit.]
- 6 10-107.
- 7 THE RIGHT TO EXPUNGEMENT OF ONE CHARGE THAT ARISES FROM A
- 8 PARTICULAR INCIDENT, TRANSACTION, OR SET OF FACTS DOES NOT AFFECT ANY
- 9 RIGHT TO EXPUNGEMENT OF ANOTHER CHARGE ARISING OUT OF THE SAME
- 10 INCIDENT, TRANSACTION, OR SET OF FACTS.
- 11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
- 12 October 1, 2004.